

CONTRACT TERMS AND CONDITIONS

SPECIFICATIONS

Products delivered against this contract must comply with the State of California Specification 9130-21H-06, dated August 2002. EXCEPT: Octane rating shall be no less than 88.5.

CONTRACT PERIOD

The contract period is a minimum three- (3) year period. The State has the option of extending the contract for two- (2) one- (1) year periods.

The State will not be obligated or required to purchase any of the contractor's surplus inventories resulting from the expiration of this contract.

BASE PRICE

The base price on this contract is based on ten (10)-marketing areas. Each area coincides with a market in the Oil Price Information Service (OPIS) Publication.

<u>BID AREA</u>	<u>MARKET BASE</u>	<u>INCLUDED COUNTIES</u>
A	Eureka	Del Norte, Humboldt, Mendocino and Lake
B	Chico	Siskiyou, Modoc, Trinity, Shasta, Lassen, Tehama, Plumas, Glenn and Butte
C	Sacramento	Colusa, Sutter, Yuba, Sierra, Nevada, Placer, Sacramento, El Dorado and Yolo
D	San Francisco	San Francisco and San Mateo
E	San Jose	Sonoma, Napa, Solano, Marin, Contra Costa, Alameda, Santa Clara and Santa Cruz
F	Stockton	San Joaquin, Amador, Alpine, Calaveras, Stanislaus, Tuolumne, Merced and Mariposa
G	Fresno	Monterey, San Benito, Fresno, Madera, Kings and Tulare
H	Bakersfield	San Luis Obispo, Santa Barbara, Kern, Mono and Inyo
I	Los Angeles	Ventura, Los Angeles, Orange and San Bernardino
J	San Diego	Riverside, San Diego and Imperial

The base price will be the daily ‘**DAILY CLOSING GROSS RACK AVERAGE “MID UNLEADED”**’ quoted in the OPIS for each respective marketing area.

Procurement Division will publish and fax to the contractors a posting daily. Procurement Division shall additionally post on the Internet the weekly posting, which shall include the daily price, changes from OPIS. The contractor shall forward a copy of the Procurement Division weekly posting to all delivery locations that have been invoiced for payment to substantiate the accuracy of the base pricing on the invoice.

DIFFERENTIALS

All differential prices shall be:

Exempt from: Federal Excise Tax. Applicable exemption certificate will be furnished upon request from the contractor by the California Highway Patrol.

Exclusive of State Sales Tax, Local Sales Tax and California Motor Vehicle Fuel Tax. These taxes shall be listed separately on invoices and **SHALL NOT** be listed below as a component of the differential price.

Inclusive of: Any and all Charges, Levies and or Fees not listed above. These **SHALL NOT** be listed separately on invoices. These **SHALL BE** listed below as components of the differential price.

ADJUSTMENT OF DIFFERENTIAL PRICE DUE TO CHANGES IN CHARGES, LEVIES OR FEES

Differential prices may be adjusted if there are any additions, deletions and/or changes in charges, levies and fees due to legislation with regard to these items.

The contractor shall immediately notify the Procurement Division, Contract Management Unit, in writing of any such changes. The contractor must submit proposed differential price changes when:

1. There are increases or decrease in charges, levies or fees, which currently are a component of the contractor’s differential.

OR

2. There is new legislation, which imposes a new charge, levy or fee, which allows the contractor to pass the cost to their customers.

Any such requests for changes in differential prices shall include information to support the proposed price changes.

Upon receipt of such notice, the State reserves the right to either:

1. Accept the differential changes effective on the date of general public announcement;
2. Reject the request for differential changes as unsupported;

OR

3. Cancel the balance of the contract without prejudice effective upon receipt of such notice.

Differential price changes shall apply to quantities ordered from the contract on or after the effective date of the differential price changes.

The State shall notify the contractor of acceptance or non-acceptance of differential changes or cancellation of the balance of the contract in writing within thirty days of request.

MODIFICATION OF CONTACT

Delivery sites may be added, changed or deleted as deemed necessary by Procurement Division.

Additional unlisted location and or tank changes may be required after original contract award. Differentials for those unlisted locations and/or tank changes shall be mutually agreed upon by Procurement Division and the Contractor prior to delivery and shall be consistent with prices for nearby locations.

The contract may be modified in whole or in part upon mutual agreement of both parties. Such modifications shall be in writing, signed and dated by an authorized representative of each party.

ORDERING PROCEDURE

Products shall be ordered from the contractor on a Contract/Delegation Purchase Order (Std. 65).

The contractor at his sole option may accept verbal orders. Such orders must be confirmed in writing upon delivery or sooner.

MINIMUM ORDER

Minimum orders shall be:

80% of tank capacity for below ground tanks

70% of tank capacity for above ground tanks

Deliveries for less than the minimum order quantity shall be considered non-contract requirements – or, by mutual agreement between the contractor and the ordering location – may be delivered at the contract price plus a “PREMIUM” of not more than ten (10) cents per gallon.

Deliveries for less than the minimum order quantity required for TANK TESTING will be considered non-contract and **WILL NOT** be purchased against the contract.

DELIVERY REQUIREMENTS

Delivery shall be made only to the specified locations listed on the Contract Pricing Pages, except by written authorization from Procurement Division.

All deliveries made in a tank wagon **MUST** be metered.

Deliveries to remote locations may, by mutual agreement with the receiving location and the contractor, be delivered on a regularly scheduled “keep full” basis, **with no additional charges to the State.**

REGULAR DELIVERY REQUIREMENTS

Regular delivery shall occur within three (3)-days after receipt of order (ARO) by the contractor. The contractor agrees to deliver gasoline during regular working hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except State observed holidays.

CONTRACTOR IS REQUESTED TO MAKE DELIVERIES IN LOS ANGELES COUNTY, ORANGE COUNTY, SAN BERNARDINO METROPOLITAN AREA DNA SAN DIEGO METROPOLITAN AREA DURING OFF-PEAK HOURS. OFF-PEAK HOURS ARE 10:00 A.M. TO 4:00 P.M

EMERGENCY DELIVERY REQUIREMENTS

Contractor shall make emergency deliveries during regular working hours and days for minimum delivery requirements within one (1)-working day ARO.

Emergency deliveries are not anticipated to occur and shall be kept to a minimum by the ordering location. Contractor is required to advise Procurement Division, Petroleum Buyer of any repetitive emergencies occurring at a single delivery location.

SPECIAL DELIVERY REQUIREMENTS

The ordering location may request delivery outside the regular working hours and/or days. The contractor may charge for such deliveries. The additional charge for such deliveries is stated on the Contract Pricing Pages.

STANDING TIME

The State is entitled to one (1)-hour standing time for the purposes of unloading gasoline at **NO CHARGE.**

A charge of \$1.00 per minute shall be assessed for standing time in which the contractor’s equipment is detained, through no fault of the contractor, in excess of one hour. Excess charge time shall be invoiced separately and supported by appropriate documentation. For payment of excess standing to be processed, the excess standing time invoice must accompany the gasoline invoice.

Standing time shall begin when the contractor is ready to hook-up to the gasoline tank. The end time shall conclude when the contractor disconnects or is finished delivery of gasoline to the tank.

INVOICING REQUIREMENTS

Contractor shall render invoices as instructed on each contract/delegation purchase order (Std. 65). Each invoice shall show the county, stock item number, commodity description, quantity, contract/delegation purchase order number and contract number.

Invoice pricing shall be itemized, showing the BASE PRICE, the DIFFERENTIAL, COMPOSITE PRICE and appropriate TAXES.

The State's obligation to make payment pursuant to the contract is subject to the availability of appropriated funds.

TEMPATURE CORRECTION DISALLOWED

Temperature correction of delivered products **WILL NOT** be allowed. Invoices and payments shall be for gross gallons delivered.

ALLOCATIONS

In the event the contractor's supply of gasoline is reduced for reasons beyond the contractor's control to a level which prevents the supply of the State's requirements in full, the contractor agrees to supply the State no less than a proportionate share delivered to similar accounts, unless Federal Regulation require otherwise. If such reduction occurs, the State reserves the right to cancel all or part of the contract without prejudice to either party, by giving the contractor thirty (30) days written notification.

CONTRACTOR RESPONSIBILITIES

1. The contractor shall perform all deliveries to facilities in a safe and professional manner. Contractor's equipment shall be in good working order and all personnel shall be trained in safety measures to preclude accidents endangering personnel or property.
2. Contractor must deliver product as requested through the term of the contract.
3. Contractor shall provide office and personnel resources for responding to requests, including telephone coverage weekdays during the hours of 8:00 AM through 5:00 PM.
4. Equipment shall be compatible with the facilities tanks.